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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/889,245	10/10/2001	Roger H. Tracy	29093-03	1190

24998 7590 09/06/2002

DICKSTEIN SHAPIRO MORIN & OSHINSKY LLP
2101 L STREET NW
WASHINGTON, DC 20037-1526

EXAMINER

ALLEN, ANDRE J

ART UNIT	PAPER NUMBER
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2855

DATE MAILED: 09/06/2002

Please find below and/or attached an Office communication concerning this application or proceeding.



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Office Action Summary

Application No.

09/880,245

Applicant(s)

MOHAMMADI ET AL.

Examiner

Andre J. Allen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Specification

1. This application does not contain an abstract of the disclosure as required by 37 CFR 1.72(b). An abstract on a separate sheet is required.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 1, the word "means" is preceded by the word(s) "range finding" in an attempt to use a "means" clause to recite a claim element as a means for performing a specified function. However, since no function is specified by the word(s) preceding "means," it is impossible to determine the equivalents of the element, as required by 35 U.S.C. 112, sixth paragraph. See *Ex parte Klumb*, 159 USPQ 694 (Bd. App. 1967).

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With respect to claims 1 and 8 the recitation "said laser range finding means" is not positively recited, that is the range finding means were never understood to be a laser.

With respect to claims 17, 18 and 20, these claims are intended to be method claims but do not set forth any steps to create a method as required.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Coe et al in view of Whitehead. Coe et al teaches the basic features of the claimed invention for example

a housing 30 (claim 1,8) having a window formed therein, said housing having a proximal end and

a distal end; (claim 1,8){fig. 1} range finding means {col.4 lines 25-40}(claim 1,8), carried within said housing and oriented so that said range finder directs a beam of light through said window; {(claim 1,8),{col. 4 lines 25-40}}

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means for moving said range finding means parallel to said window; {col. 5 lines 28-31}(claim 1,8)

means carried by said housing {fig. 1}(claim 1,8);

tire-engaging means {fig. 1}(claim 1,11)means carried by said housing and in operational connection with said range finding means {fig. 1}{abstract} (claim 1,8)

a communications port means carried by said gripping means. {col. 4 lines 30-40}(claim 3)

communications port means transmits distance data using an infrared transmission. {col. 4 lines 30-40}(claim 4,9)

a computer 32, said computer in electrical communication with said range finding means, said computer having a display and means for plotting distance data. {fig. 1}(claim 13)

scanning the rolling face of a tire to determine the tread profile; {fig. 1} (claim 15)

communicating said tread profile to a computer having a display; {fig. 1}(claim 15)

plotting the tread profile on said display; {fig. 1}(claim 16)

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tread profile is communicated to said computer using a transmission selected from the group consisting of infrared (claim 17).

However Coe et al does not disclose:

housing has a concave arcuate edge formed at both said proximal end and said distal end to provide support for a tire. {fig. 11}

using a radio frequency transmission.

gripping means is a handle carried by said proximal end of said housing.

a handheld computer

a handle carried by said proximal end of said housing; and

means carried by said housing and in operational connection with said range

finding means and said moving means and communications port means

carried by said handle

said window is positioned in contact with the tread of a tire.

said gripping means is a handle carried by said proximal end of said housing.

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said scanning step and communicating step is performed by a probe having a handle, said handle having a communications port that communicates said tread profile to said computer.

said scanning step is performed by a handheld probe.

determining whether the tread profile complies with the minimum allowable tread profile listed in governmental regulations.

predicting when the tire needs replaced to comply with the minimum allowable tread profile listed in governmental regulations.

Whitehead et al discloses a tire profile apparatus comprising:

A housing having a concave arcuate edge formed at both said proximal end and said distal end to provide support for a tire. {fig. 11}(claim 2)

using a radio frequency transmission.

gripping means 74 is a handle carried by said proximal end of said housing {fig. 11}. (claim 1,6,8,14,18)

a handheld computer 90 with display (claim 7)

a handle carried by said proximal end of said housing; and

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means carried by said housing and in operational connection with said range finding means and said moving means and communications port means carried by said handle (claim 8){fig. 11}

said window is positioned in contact with the tread of a tire. {col. 7 lines 9-18}(claim 11)

said scanning step and communicating step is performed by a probe having a handle, said handle having a communications port that communicates said tread profile to said computer. {col. 7 lines 9-18}{col. 7 lines 33-40} (claim 16)

said scanning step is performed by a handheld probe.{fig. 11} (claim 16)

With respect to determining whether tires comply with government regulations (claims 19,20), it would have been obvious to one having ordinary skill in the art at the time the invention was made to use government tire regulations to determine whether they are compliant since it is well known in the tire art that tire manufactures must meet government regulations before they are used.

With respect to the use of a radio frequency, it would have been an obvious matter of design choice to modify the cited prior art to use a radio frequency transmission, since the applicant has not disclosed that a radio

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frequency transmission solves any stated problem and it appears that the invention would perform equally as well with laser/infrared transmission as cited in the above prior art.

Since the references of Coe et al and Whitehead are both from the same field of endeavor, the purpose disclosed by Whitehead would have been recognized by the pertinent art of Coe et al.

It would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the tire tread profile apparatus as taught by Coe et al with a smaller handheld feature as taught by whitehead for the purpose of creating a tire tread profile apparatus that operates at optimum performance.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US patents 5249460, 5245867, 6131455, 6327904, 6269688, 6034676 and 5485406 each teach apparatuses that measure and/or analyze tire tread data.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andre J. Allen whose telephone number is 703-3081989. The examiner can normally be reached on mon-fri 8:00-4:30.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ben Fuller can be reached on 703-308-0079. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-3432 for regular communications and 703-308-3432 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956.

A.J.A
August 5, 2002


Benjamin R. Fuller
Supervisory Patent Examiner
Technology Center 2800